

Jan Wasson  
Professional Treasurer  
13016 Mindanao Way #4  
Marina Del Rey, CA 90292

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February 14, 2002

**VIA FACSIMILE**

Ms. Luisa Menchaca  
General Counsel  
Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento, CA 95814

Re: Request for Formal Advice

Dear Ms. Menchaca:

I am the treasurer for Wesson for Assembly (a committee formed for the 2000 election) and for Wesson for Assembly 2002. As discussed below, I have been advised that Proposition 34 permits a pre-2001 candidate committee to accept unlimited contributions from candidates for elective state office and that a candidate for elective state office may make unlimited contributions to a candidate for statewide office. Because the FPPC has not offered formal advice in response to these issues, however, I would appreciate your response to the following questions regarding the transfer provisions of Proposition 34:

1. May a candidate committee formed for a pre-2001 election (a pre-Proposition 34 committee) accept contributions from other candidates for elective state office in excess of the limits set forth in section 85301(a)?
2. May a pre-Proposition 34 committee contribute more than \$3,000 per election to a candidate for statewide office prior to November 6, 2002?
3. May a committee controlled by a candidate for state elective office in 2002 (a post-Proposition 34 committee) contribute more than \$3,000 per election to a

candidate for statewide office prior to November 6, 2002?

For your convenience, I have been provided with the following information regarding the applicability of Proposition 34 and the FPPC's regulations to the questions presented above.

### Question 1

Government Code section 85316, which limits post-election fundraising, "does not apply to elections held prior to January 1, 2001, and Proposition 34's contribution limits, found in Sections 85301 and 85302, do not apply to contributions for pre-2001 elections." (June 26, 2001, Memorandum from Holly Armstrong to Chairman Getman, et al., at 1.) Thus, regulation 18531.6 provides, in pertinent part, as follows:

(a) Pre-2001 Elections. Government Code section 85316 does not apply to a candidate for elective state office in an election held prior to January 1, 2001.

(1) There are no contribution limits in effect for elections held prior to January 1, 2001 for contributions made on or after January 1, 2001.

(2) Contributions for an election held prior to January 1, 2001 may be accepted in an amount that exceeds net debts outstanding.

(Cal. Code of Regs., tit. 2, § 18531.6.)

Government Code 85305, which restricts transfers from one candidate to another, provides as follows:

A candidate for elective state office or a committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

(Gov. Code, § 85305.)

Thus, a committee controlled by a candidate may not make a

contribution in excess of the limits set forth in section 85301(a). Because the contribution limits in section 85301(a) do not apply to contributions to a pre-Proposition 34 committee (Cal. Code of Regs., tit. 2, § 18531.6(a)(1)), a pre-Proposition 34 committee may accept contributions from other candidates for elective state office in excess of the limits set forth in section 85301(a), and a candidate for elective state office may contribute more than \$3,000 to a pre-Proposition 34 committee.

### Questions 2 and 3

As discussed above, Government Code section 85305 provides that a committee controlled by a candidate may not make a contribution to any other candidate in excess of the limits set forth in section 85301(a). Section 85301(a) provides:

A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office *other than a candidate for statewide elective office*, and a candidate for elective state office *other than a candidate for statewide elective office* may not accept from a person, any contribution totaling more than \$3,000 per election.

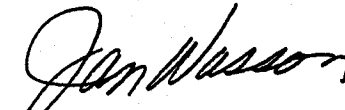
(Gov. Code, § 85301(a), emphasis added.)

Thus, section 85301(a) imposes a \$3,000 per election limit on contributions to candidates for state elective office, except candidates for statewide elective office. Because section 85301(a) expressly excludes contributions to candidates for statewide office from the \$3,000 per election limit, a candidate-controlled committee (pre or post-Proposition 34) may contribute an unlimited amount to a candidate for statewide elective office.

Moreover, even if the limit set forth in 85301(a) did apply to transfers to candidates for statewide elective office, the provisions of article 3, of which section 85301(a) and 85305 are a part, do not apply to candidates for statewide office until November 6, 2002. (Proposition 34, § 83.) A candidate for statewide office may therefore accept unlimited contributions until November 6, 2002. It would be illogical to permit a candidate for statewide office to accept unlimited contributions until November 6, 2002, but to prohibit a candidate-controlled committee from contributing in excess of the \$3,000 limit in 85301(a) to a candidate for statewide office.

Thank you for your consideration of this matter.

Sincerely,

  
Jan Wasson